IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/10/2002

CORAM

THE HONOURABLE MR. JUSTICE P.D.DINAKARAN

W.P.No.38703 of 2002 and W.P.No. 38709 of 2002
and W.P.Nos. 38738 to 38744 of 2002

M.Kulothunga Cholan .. Petitioner
In WP:38703/02

M.Karikala Cholan .. Petitioner
In WP:38704/02

M.Sibi Chakaravarthy .. Petitioner
In WP:38705/02

K.Senthil Kumar .. Petitioner
In WP:38706/02

R.Thunaiyarasan .. Petitioner
In WP:38707/02

K.Sankar .. Petitioner
In WP:38708/02

Raja Raja Cholan .. Petitioner
In WP:38709/02

M.Nappolian .. Petitioner
In WP:38738/02

M.Mummidi Cholan .. Petitioner
In WP:38739/02

M.Panchali .. Petitioner
In WP:38740/02

Puhalandi @ Vijayanandh .. Petitioner
In WP:38741/02

T.Devi .. Petitioner
In WP:38742/02

P.Banumathi .. Petitioner
In WP:38743/02

K.Kalaiarasan .. Petitioner
In WP:38744/02

-Vs-

1. The Director General of Police
Madras.

2. The Superintendent of Police
(Rural), Trichy.

3. Mr.Elangovan
Deputy Superintendent of Police
(Rural), Law & Order, Lalgudi
Trichy.

4. The Inspector of Police
E1, Lalgudi Police Station
Lalgudi, Trichy. .. Respondents
In all W.P.s

PRAYER: Petitions under Article 226 of the Constitution of India for issue of a writ of Certiorari as stated therein.

For Petitioners : Mr.R.Regupathy

For Respondents : Mr.D.Krishnakumar
Special Govt. Pleader

:ORDER

In these writ petitions, the petitioners seek a writ of Certiorari to call for the records on the file of the fourth respondent in connection with the History Sheet Nos.436, 437, 438, 440, 441, 442, 439, 44 3, 444, 446, 445, 447, 448, and 449, opened on 7.5.2002 and quash the same.

2. The impugned proceeding dated 7.5.2002 that is challenged in these writ petitions reads as follows:
"From:
The Inspector
E1, Lalgudi Police Station
Lalgudi.

To:
The Superintendent of Police
Lalgudi Circle, Lalgudi.

Sir,

Sub: Rowdy History Sheet opening in the marginally noted personRefreshment.

Ref:(1) Lalgudi Ps Cr.No.1174/01 U/s.147, 148,
323, 506 (11) IPC
Cr.No.175/02 U/s.341, 324,
506(11) IPC
(2) As per the order of the DGP Chennai
RC.No.59977 Crime -3(1)/02, dated
22.3.2002.

The marginally noted accused in concerned in the cited above case, Ref.No.1 and the case is pending trial in the court of JM, Lalgudi. The activities of said accused may be watched under History Sheet. Hence, I request that kindly permit to open History Sheet on him.

Order:
Yours Sincerely

Open History Sheet

Ilangovan Rajendran
D.S.P.-Lalgudi Inspector of Police
Date: 07.05.2002 Lalgudi
History No:

1. 436 M.Kulothunga Cholan
S/o.S.Marimuthu
2. 437 M.Karikala Cholan
S/o.S.Marimuthu
3. 438 M.Sibi Chakaravarthi
S/o.S.Marimuthu
4. 439 M.Raja Raja Cholan
S/o.S.Marimuthu
5. 440 K.Senthil Kumar
S/o.Kandasamy
6. 441 R.Thunaiyarasan
S/o.M.Rengaraj
7. 442 K.Sankar
S/o.M.Karuppaiyan
8. 443 Nappolian
S/o.S.Manickam
9. 444 M.Mummudi Cholan
S/o.S.Manickam
10. 445 Puhalandi @ Vijayanandh
S/o.Kulandhaivel
11. 446 M.Panchali
W/o.S.Marimuthu
12. 447 T.Devi
W/o.R.Thunaiyarasan
13. 448 P.Banumathi
W/o.Panaiyadian
14. 449 K.Kalaiyarasan
S/o.Kalaiselvan"

3. A plain reading of the impugned proceedings dated 7.5.2002 refers to two crimes, viz.,(i) Cr.No.1174/01 for the offences punishable under Sections 147, 148, 323, 506 (11) of Indian Penal Code, and (ii) Cr.No.175/02 for the offences punishable under Sections 341, 324, 506(11) Indian Penal Code, and also the proceedings of the Director General of Police dated 22.3.2002.

4. Even though the allegations mentioned in the above crimes constitute grave offences referred to above, Mr.R.Regupathy, learned counsel for the petitioners seriously contends that those allegations are false, incorrect and mala fide, and therefore, seeks a writ of certiorari as prayed for invoking Article 226 of the Constitution of India, placing reliance on the decision of the Apex Court in GOBIND Vs. STATE OF M.P. reported in 1975 (2) SCC 148, contending that the impugned Rowdy History Sheets carrying the names of the petitioners offends Article 21 of the Constitution of India in as much as their privacy of life and liberty protected under Article 21 of the Constitution of India are vitiated.

5. Mr.D.Krishnakumar, learned Special Government Pleader takes notice on behalf of the respondents.

6. I have given careful consideration to the submissions of both sides.
7. The decision in GOBIND Vs. STATE OF M.P. reported in 1975 (2) SCC 148 is not applicable to the facts and circumstances of the present case, as what was challenged in the said case is that the name of the aggrieved party was continuously maintained in the Rowdy History Sheet without any application of mind by the respondent/Police with regard to his subsequent conduct.

8. On the other hand, it is not in dispute that the impugned Rowdy History Sheets refer to the recent occurrence with regard to which investigation is still pending before respondents 3 and 4, for which the petitioners allege mala fide against respondents 3 and 4, and the same was brought to the notice of the first respondent by their representation dated 11.3.2002. In my considered opinion, the first respondent is under a statutory obligation to go into the said representation dated 11.3.2002 and to take appropriate decision in the matter exercising the power conferred under Section 154(3) of the Code of Criminal Procedure and if necessary to transfer the investigation to some other Officer, if the grievance of the petitioners in this regard is found true.

9. Hence, supported with the decision of the Apex Court in CHAMAN LAL Vs. STATE OF U.P. AND OTHERS reported in 1992 SUPP (2) SCC 84, wherein the Apex Court confirming the orders of the High Court refusing to quash the History sheet observed that the aggrieved party may approach the superior authority seeking their intervention in such matters, who may consider such representation according to law and pass appropriate orders, I am obliged to direct the first respondent herein to consider the representation of the petitioners dated 11.3.2002, referred to above, independently and pass

appropriate orders in the matter expeditiously, in any event within sixty days from the date of receipt of copy of this order. If the petitioners are still aggrieved, the petitioners are at liberty to workout their further remedies under the provisions of the Code of Criminal Procedure.

This writ petition is disposed of accordingly. No costs.
Consequently, W.P.M.P.Nos.57785 to 57798 and 57853 to 57866 of 2002 are closed.

Index : Yes
Internet: Yes

Sasi
To:
1. The Director General of Police
Madras.

2. The Superintendent of Police
(Rural), Trichy.

3. Mr.Elangovan
Deputy Superintendent of Police
(Rural), Law & Order, Lalgudi
Trichy.

4. The Inspector of Police
E1, Lalgudi Police Station
Lalgudi, Trichy.